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In re Application of	:	
BUB, et al.	:	DECISION ON PETITION
Application No.: 09/914,397	:	
PCT No.: PCT/DE00/00116	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 January 2000	:	
Priority Date: 08 January 1999	:	
Attorney Docket No.: 38485-0006	:	
For: MOLECULAR-BIOLOGICAL MARKER	:	
FOR ANALYTICAL ELECTRON	:	
MICROSCOPY	:	

This decision is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 28 August 2001 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 07 January 2000, applicant filed international application PCT/DE00/00116 which claimed priority of an earlier application filed 08 January 1999. A Demand for international preliminary examination was filed on 04 August 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 July 2001.

On 08 July 2001, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 28 August 2001, applicant filed the present petition accompanied by a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371;" payment of the basic national fee, a sequence listing and an unexecuted combined declaration and power of attorney of the inventors.

### **DISCUSSION**

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from

the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the basic national fee. Applicants have included this payment along with the present petition.

As to Item (2), applicants have included this payment along with the present petition.

With regard to Item (3), applicant's statement that, "the entire delay in entering the U.S. national stage and paying the national application filing fee from the due date for filing and payment of the fee until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Applicants are still required to submit an executed oath or declaration of the inventors and translation of the International Application into English.

### **CONCLUSION**

For the reasons stated above, the petition for revival is **GRANTED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905).



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